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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,808	05/12/2006	Andrew Montgomery	MOAE0101PUSA	7006
22045	7590	08/16/2010	EXAMINER	
BROOKS KUSHMAN P.C. 1000 TOWN CENTER TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075			SKURDAL, COREY NELSON	
			ART UNIT	PAPER NUMBER
			3782	
			MAIL DATE	DELIVERY MODE
			08/16/2010	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/595,808	<b>Applicant(s)</b> MONTGOMERY, ANDREW	
	<b>Examiner</b> COREY N. SKURDAL	<b>Art Unit</b> 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-6 and 9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-6 and 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

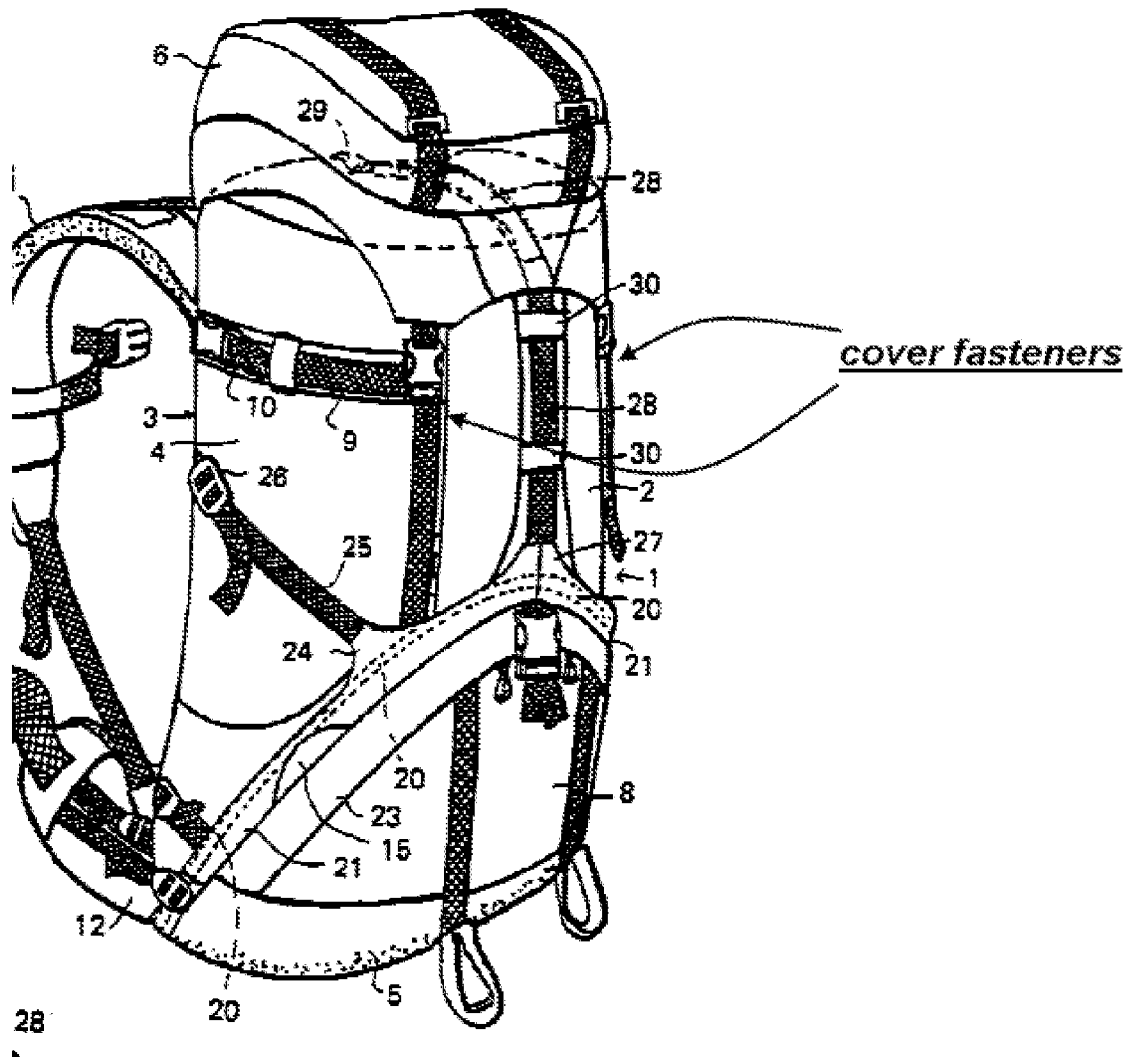
2. Claims 1, 6, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clements (US 6,024,265) in view of Thompson (US 6,325,262).

Clements discloses a sack substantially as claimed, including: a pliable substantially cylindrical body portion 1 extending along a central axis for receiving the material, the body portion having a lower base portion 5, a substantially cylindrical wall 3 and an upper opening for introducing the material into the sack and removing it therefrom; a cover 6 exterior to the body portion and fixed thereto proximate the opening and having a cover fastener (see Examiners Figure 1 below, also shown in Figures 1, 2, and 5) aligned parallel to the central axis for releasably fastening to the body portion proximate the base whereby the cover covers the opening, a plurality of compression straps 25 aligned parallel to the central axis (considered aligned parallel in that the claim does not define what aspect of the strap is being claimed as parallel, and as such when detached from buckles 26 the straps may be oriented and aligned parallel to the central axis) and connect to the body proximate the base portion and releasably cooperable with first connectors 26 located proximate the upper opening, the cover fastener and compression straps being operable to compress material in the body

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portion along the central axis; and a pair of shoulder straps 11, separate from the compression straps, connected to the wall adjacent two of the first set of connectors and terminating in a second set of connectors (unlabeled but seen in Figures 1 and 6), wherein the second set of connects are **capable** of the functional use claimed, being cooperable with the compression straps when the compression straps are not used with the first connectors. Clements does not disclose a porous pliable panel member that creates a sleeve. However, Thompson teaches that it is well known to provide a backpack 100 having a wall means 110 and shoulder straps 120 with a porous pliable panel member 130 between the shoulder straps and attached to the wall means to form a sleeve 131 on the back of the back pack, whereby the sleeve can also be used to store a stiffening member 150. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide the backpack of Clements with a wall between the shoulder straps having a breathable barrier/sleeve as taught by Thompson in order to make the sack more comfortable when carried as a backpack by the wearer. In doing so, a sleeve would be defined which could be used to stow a stiffening member, a hydration bladder, or the shoulder straps when not in use.

Regarding claim 3-5, Clements teaches a drawstring 7, a substantially cylindrical body, a cap like cover 6, and wherein the panel taught by Thompson is porous and pliable.



**EXAMINER'S FIGURE 1**

***Response to Arguments***

3. Applicant's arguments with respect to claims 1, 3-6, and 9 have been considered but are not persuasive. Applicant argues that Clements does not teach compression straps that compression the body portion along its central axis, and further than there is no cover fastener operable to compress the body portion along its central axis.

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Applicant specifically argues that compression straps 25 of Clements only compress the material against the wearers back, and that strap 28 does not attach to the cover to define a cover fastener as claimed.

4. First, it is noted that strap 28 is not relied on to teach the cover fastener, rather as label in Examiner's Figure 1 above, vertical straps at each side of strap 28 clearly attach to the cover and to the body portion and are aligned parallel to a central axis of the body portion. Regarding the compression straps 25 providing a compression force along the central axis, the claims currently recite that the compression straps and the cover fastener operate together to compress material in the body portion, not that the compression straps work alone to compress the body portion itself along the central axis. The cover fasteners noted in Examiner's Figure 1 clearly provide a compressive force as claimed, and taken in combination with the compression straps 25, material carried within the body portion would be compressed in the vertical direction along the central axis. Even considered alone, the compression straps 25 would provide some degree of compression to material held in the body portion in a direction parallel to the central axis. While a majority of the compressive force from the straps 25 would be directed toward the back portion of the rucksack, some degree of compressive force would still be directed in the vertical direction when the sack is filled with material. As such, the modified Clements device is considered to meet all structural and functional limitations of the claims.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to COREY N. SKURDAL whose telephone number is (571)272-9588. The examiner can normally be reached on M-Th 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. N. S./  
Examiner, Art Unit 3782

/Nathan J. Newhouse/  
Supervisory Patent Examiner, Art Unit 3782